



OFFICE OF SPEAKER NANCY PELOSI FACT SHEET

THE LILLY LEDBETTER FAIR PAY ACT OF 2007

Key Points:

- **In May, the Supreme Court issued a 5-4 decision, in *Ledbetter v. Goodyear*, that tosses aside prior law and makes it much harder for workers to pursue pay discrimination claims. The court held that a worker must file a charge of pay discrimination within 180 days of the employer's first decision to pay someone less for discriminatory reasons.**
- **This bill rectifies the Supreme Court's decision, thereby simply restoring the longstanding interpretation of Title VII of the Civil Rights Act – that each paycheck that results from a discriminatory decision is itself a discriminatory act that resets the clock on the 180-day period within which a worker must file.**
- **The Supreme Court decision ignores the realities of the workplace – where employees generally do not know enough about what their co-workers earn, or how pay decisions are made, to file a complaint precisely when discrimination first occurs. Indeed, in a large proportion of U.S. companies, salaries are confidential.**

Today, the House will consider H.R. 2831, the Lilly Ledbetter Fair Pay Act. This bill rectifies the Supreme Court decision in *Ledbetter v. Goodyear* that made it much harder for workers to pursue pay discrimination claims.

In May, the Supreme Court handed down a 5-4 decision, *Ledbetter v. Goodyear*, which tosses aside longstanding prior law and makes it much harder for workers to pursue pay discrimination claims. On May 29, the Supreme Court handed down a 5-4 ruling that would make it significantly harder for workers to sue their employers for discrimination in pay. The Court ruled that since Lilly Ledbetter, a long-time employee of Goodyear, had not filed her charge of pay discrimination within 180 days of her employer's decision to pay her less, she could not receive any relief.

By its ruling, the Supreme Court stripped Title VII of the Civil Rights Act of much of its potency. As a New York Times editorial (5/31/07) pointed out, "The Supreme Court struck a blow for discrimination this week by stripping a key civil rights law of much of its potency. The majority opinion ... forced an unreasonable reading of the law, and tossed aside longstanding precedents to rule in favor of an Alabama employer that had underpaid a female employee for years."

In overturning the Supreme Court, this bill simply restores the longstanding interpretation of Title VII of the Civil Rights Act. The Supreme Court ruling overturned longstanding precedent. Under longstanding precedent and the interpretation of the EEOC, every paycheck resulting from an earlier discriminatory pay decision is considered a violation of the Civil Rights Act. Therefore, as long as a worker files within 180 days of a discriminatory paycheck, their charges are considered as timely.

If allowed to stand, this Supreme Court decision would severely limit the rights of employees who have been discriminated against in pay, on the basis of sex, race, color, national origin or religion. The Supreme Court ruling limits the ability of workers to sue companies for pay discrimination would dramatically reorder the legal landscape for workers and employers – significantly disadvantaging workers. As the New York Times has reported (5/30/07), “While the ruling involved sex discrimination, experts said it would have broad ramifications in cases involving discrimination because of race and national origin, narrowing the legal options of many employees.”

This Supreme Court decision ignores the realities of the workplace. The majority in this decision failed to take into account the realities of the workplace. Employees generally do not know enough about what their co-workers earn, or how pay decisions are made, to file a complaint precisely when discrimination first occurs. Indeed, in a large proportion of American companies, salaries are confidential. The court’s new rules would make it extraordinarily difficult for victims of pay discrimination to sue under Title VII.

In her dissent, Supreme Court Justice Ruth Bader Ginsburg urged Congress to quickly pass a law correcting this damaging decision. As the New York Times (5/30/07) reported, “In a vigorous dissenting opinion that she read from the bench, Justice Ruth Bader Ginsburg said the majority opinion ‘overlooks common characteristics of pay discrimination.’ She said that given the secrecy in most workplaces about salaries, many employees would have no idea within 180 days that they had received a lower raise than others. ... Justice Ginsburg noted that even a small differential ‘will expand exponentially over an employee’s working life if raises are set as a percentage of prior pay.’” In her dissent, Justice Ginsburg invited Congress to correct the Court’s misinterpretation of Title VII: “[t]he ball is in Congress’ court ... the Legislature may act to correct this Court’s parsimonious reading of Title VII.”

The bill maintains the law’s current statute of limitations and limits on back pay recovery. Contrary to opponents’ claims, the bill does not eliminate the statute of limitations. Under this bill, an employee must still file a charge within the statutory filing period after receiving a discriminatory paycheck. Moreover, employees have no incentive to sit on their rights. The bill maintains Title VII’s limitation of two years for back pay recovery. The longer an employee waits, the more back pay is rendered unrecoverable.

The bill provides that its clarification on discriminatory pay violations under the Civil Rights Act also applies under other statutes as well. The bill makes clear that every paycheck resulting, in whole or in part, from an earlier discriminatory pay decision in addition to constituting a violation of Title VII of the Civil Rights Act, also constitutes a violation of the Americans with Disabilities Act, the Rehabilitation Act, and the Age Discrimination in Employment Act.

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